

REMARKS

This communication is in response to the Office Action dated July 21, 2009 in which claims 1-21 and 23-32 were pending and rejected.

Status of Claims

Claims 1-17 pending, original.

Claims 18-21 pending, added.

Claim 22 canceled.

Claims 23-32 pending, added.

Support for the Added Claims

Claim 18 is supported by the specification at col. 3, line 26-31; col. 4 lines 46-55; col. 5 lines 5-19; col. 8, lines 32-36; col. 17, lines 20-61; col. 31, lines 41-57; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; and original claims 1 and 4.

Claim 19 is supported by col. 29 line 21; col. 31, line 20 and original claim 1.

Claim 20 is supported by col. 5, lines 47-55; col. 32, lines 22-32 and original claim 2.

Claim 21 is supported by col. 5, lines 19-25; col. 31, lines 58-64; and original claim 3.

Claim 23 is supported by col. 5, lines 31-46; col. 32, lines 4-13; and original claim 5.

Claim 24 is supported by col. 5, line 48; col. 6, lines 4-9; col. 11, lines 14-18; col. 32, lines 31-56; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; FIG.s 1-3; and original claims 4, 9, and 10.

Claim 25 is supported by col.9, lines 43-59; and col. 13, lines 28-43.

Claim 26 is supported by col. 6, lines 11-23; col. 32, line 57; co. 33, line 5; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; and original claims 4 and 11.

Claim 27 is supported by col. 32, line 57 to col. 33, line 5.

Claim 28 is supported by col. 6, lines 41-43, col. 33, lines 1-29; and original claim 13.

Claim 29 is supported by col. 6, lines 23-36; col. 31, lines 1-39; col. 33, lines 6-13; and original claim 14.

Claim 30 is supported by col. 6, lines 23-36; col. 31, lines 1-39; col. 33, lines 14-23; and original claim 15.

Claim 31 is supported by col. 6, lines 48-62; col. 31, lines 40-58; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; and original claims 4 and 16.

Claim 32 is supported by col. 6, lines 62-65; col. 31, lines 40-58; and original claim 17.

Claim Rejections – 35 U.S.C. § 103

Claims 18-21, 24-29, and 31 were rejected under 35 U.S.C. § 103(a) as being anticipated by Rostoker et al. (U.S. Patent No. 5,668,809 – hereinafter “Rostoker”). Applicant respectfully traverses all rejections based on Rostoker.

Applicant respectfully disagrees with the Examiner’s interpretation of Rostoker. Specifically, the Examiner asserts that the CRC bits of Rostoker are stripped from the data packet received at the VC RAM (56) and stored in the host (16) memory without storing the CRC to the host memory. See the Non-Final Office Action dated July 21, 2009, page 3. Applicant disagrees with such an interpretation because Rostoker shows, in FIG. 15 (bottom left example), that the CRC32 data is stored in the main memory. Thus, the system of Rostoker does NOT “remove the data protection code from the first packet, and store the first packet to a second memory without storing the first data protection code in the second memory”, as required by Claim 18 and similarly in claims 24, 26, and 31.

Further, in FIG. 30, the ATMizer functions are shown and described and Rostoker does not show or describe any function of removing the received CRC and storing a respectively received data packet without the corresponding CRC. Rostoker, Col. 63, line 46 to Col. 64, line 17. Instead, Rostoker teaches that the CRC32 received over the interface is saved to a main memory.

The AAL5 CS-PDU system is a communication protocol that can be implemented between ATM devices. The AAL5, as described in Rostoker requires the CRC data to be transmitted between the devices. See Rostoker, Col. 32, lines 42-57. “The AAL5 CRC32 partial result must be stored safely away in a place where it can be retrieved the next time that the CS-PDU is segmented (it will most likely be stored in the channel parameter entry for the VC).” Rostoker, Col. 32, lines 28-32. Also, “When the last SAR User Payload of a CS_PDU has been fetched from memory, the APU 52 is responsible for reading the CRC32 final result from the CRC32 Partial Register and appending the result to the last four bytes of the cell in the VCR 56 Cell Builder”. Rostoker, Col. 32, lines 28-32. There are also more examples within Rostoker that clearly state the CRC32 is stored in the main memory or elsewhere to be retrieved when the data packet is to be transferred again.

Even further, the Office Action acknowledges that Rostoker does not teach the elements of the claims. See the Non-Final Office Action dated July 21, 2009, page 3. The Office Action states “Presumably the CRC32 “data protection code” is stripped away from the reassembled packet so that the host receives packets from the ATMizer (50) in the same format as packets sent to ATMizer from the host (WS 16), however Rostoker does not mention as much.” Applicant respectfully traverses and disagrees with this statement. Rostoker deals with two distinct actions (1) data packets received over the network from other ATM devices (Rostoker, Fig. 1 and related discussion, also see Col. 19, lines 2-31 and Col. 31, line 52 to Col. 32 line 57) and (2) data packets that are to be sent via the ATM device to another device (Rostoker, Fig. 15 and related discussion, also see Col. 19, lines 32-67). There is nothing within Rostoker to suggest, teach, or disclose that CRC32 data is stripped from the received data packets. Instead, Rostoker actually teaches away from the present claims by disclosing that the CRC32 data packets are stored in main memory. As for the second action, Rostoker discloses appending CRC32 data packets to outgoing user generated data, not data that was received from another ATM device.

Applicant hereby adequately traverses the Examiner’s use of Official Notice and asks that specific documentation showing the assertions by the Examiner be provided. The Examiner has erred by stating that “stripping the CRC from a packet after the CRC has been checked was already conventional practice”. Applicant believes this statement is not true and asks the

Examiner to provide evidence to support the statement. Per MPEP 2144.03, "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." Further, "the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute". The Applicant asserts and believes the Office has not met its own established requirements for use of Official Notice. This is supported by the fact that Rostoker does not disclose the subject matter of the Official Notice. Yet, even further, "It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697". The Office Action is relying solely on common knowledge as the principal evidence to reject significant elements of the present claims.

Further, the Official Notice does not address the actual elements of the Claims and ignores each Claim as a whole. In addition, Applicant believes the current rejections use improper hindsight reconstruction to misconstrue elements of a reference to fit the elements of the current claims.

Therefore, Applicant believes claims 18-21, 24-29, and 31 are patentable over Rostoker and respectfully requests reconsideration and issuance of all pending claims.

Reissue Declaration

The reissue declaration was objected to in the latest Office Action. Applicant herewith is filing a supplemental reissue declaration per 37 CFR 1.175(b). Applicant respectfully traverses that the reissue declaration is defective "because the present claims do not specifically correspond to the error identified". Applicant asserts the error listed in the original reissue declaration is still being corrected. Also, per 37 CFR 1.175(c), the supplemental declaration need not specifically identify any other errors corrected because the previously stated errors of the original reissue declaration are still being corrected. Applicant believes the Supplemental Reissue Declaration filed herewith should satisfy all objections/rejections to the declaration. Withdrawal of the objections and rejections based on 35 USC 251 is requested.

Conclusion

Applicant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the reference applied in the Office Action. Accordingly, Applicant submits that the present application is in condition for allowance and respectfully request reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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